

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

LINDA SCHUMACHER, *et al.*

Plaintiffs,

V.

JAY R. INSLEE, *et al.*,

Defendants.

NO. 3:18-cv-5535

**RENEWED STIPULATED MOTION TO
EXTEND CLASS DISCOVERY
DEADLINES AND ORDER**

NOTE DATE: Oct. 7, 2020

The Parties respectfully submit a renewed request that this Court extend the current deadlines for class-related discovery and for Plaintiffs' class certification motion. This Court denied the Parties' previous request in its Order Denying Stipulated Motion for an Extension of Time without prejudice, citing the lack of explanation as to what remains to be done in this case and how the parties intend to complete the discovery. Dkt. 62.

The previous stipulated deadline for class-related discovery was September 30, 2020. The original deadline for Plaintiffs' motion for class certification is October 30, 2020. The Parties have worked diligently to finish class-related discovery but have encountered several challenges which have delayed the process.

1 For instance, Plaintiffs served written discovery on July 16, 2020. SEIU 775 served
 2 objections and interrogatory answers on August 17 but were unable to provide any documents at
 3 that time. That inability was due to the fact that since early August SEIU 775's general counsel,
 4 Judy Krebs, had first been preparing for and then serving as lead counsel in a 9-day interest
 5 arbitration against the State, which occupied nearly all of her professional time.

6 Following the conclusion of the arbitration in late August, Ms. Krebs had a scheduled
 7 vacation. On August 27 undersigned counsel Michael Subit began a 20-day cross-country driving
 8 trip to New York and back to see his elderly parents, both of whom suffer from serious health
 9 issues.¹ Mr. Subit returned to Seattle on the afternoon of September 15. On September 17, the
 10 Union produced supplemental discovery responses including a sizable document production.
 11 However, it was immediately discovered that a handful of individuals had been erroneously
 12 identified as potential class members after the Union had already undertaken the discovery
 13 requested for these individuals. It took the Union a week to confirm the class list and transfer
 14 relevant files to Mr. Subit's law firm. The Union also encountered technical difficulties in making
 15 necessary redactions to electronic documents. On September 24, SEIU 775 provided a corrected
 16 class list and additional documents.

17 While SEIU 775 has worked diligently to respond to Plaintiffs' discovery requests and has
 18 produced approximately 1,400 pages of documents, its discovery production is not yet complete.
 19 The Parties have also encountered minor disputes with respect to the Plaintiff's class-related
 20 discovery, which they may be able to resolve with additional time without judicial intervention.
 21 Although the Union received the Plaintiffs' discovery responses in late August, due to Mr. Subit's

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 24 ¹ On September 4, 2020, *USA Today* ran an article on Mr. Subit's trip and the difficulties of scheduling it due to the COVID pandemic.

1 three-week absence from Seattle, the parties were not able to schedule the plaintiffs' depositions
2 before the discovery cut-off.

3 Remaining Discovery by Plaintiffs

4 The Union expects to complete its production of documents this week. Due to the delay in
5 discovery, Plaintiffs' counsel has not been able to prepare Plaintiffs' case with respect to class
6 certification pursuant to the anticipated schedule the Parties previously agreed upon, and requires
7 additional time to prepare the case with respect to class certification. Further, Plaintiffs' counsel
8 have difficult schedules throughout October, November, and December, that include a number of
9 commitments and deadlines, including a possible trial, multiple appeals briefs, and holiday travels.
10 Additionally, individuals needed for depositions have busy schedules throughout November.
11 Specifically, what remains as to class-related discovery is the completed production of documents
12 anticipated from SEIU 775 in response to Plaintiffs' discovery requests, which were issued July
13 16, 2020, and the resolution of any other issues between the parties, which the parties believe could
14 be addressed within the next two (2) weeks. Additionally, Plaintiffs anticipate the need to issue a
15 set of Requests for Admission based, at least in part, upon the documents still to be produced by
16 SEIU and, possibly, based upon deposition testimony.²

17 Remaining Discovery by the Union

18 The only remaining discovery the Union anticipates are short depositions of the four named
19 plaintiffs. The Parties believe those depositions can be completed over a two-day period. In June
20 the Parties tentatively agreed to schedule those depositions in late August. At that time, Mr. Subit
21 advised Plaintiffs' counsel that he was planning to make a 3-week cross-country driving trip to

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² The Union does not concede Plaintiffs' entitlement to or the relevance of additional discovery.

1 visit his elderly parents (one of whom is suffering from a terminal medical condition), the timing
2 of which would depend on the status of the COVID-19 outbreak.

3 Washington was removed from the New York quarantine list in early August. Mr. Subit
4 determined that the safest time for the trip would be late August through mid-September. Rather
5 than schedule plaintiffs' depositions for late-September, after his return Mr. Subit devoted his
6 energies to facilitating the Union's discovery production. Although Plaintiffs were available
7 throughout September for SEIU 775's anticipated depositions, Plaintiffs' availability for these
8 depositions is limited throughout October due to busy schedules and pre-planned vacations. While
9 the Union prefers to take the plaintiffs' depositions in October, given the plaintiffs' schedules, the
10 Parties anticipate conducting Plaintiffs' depositions during November.

11 Due to these considerations, the Parties respectfully request that the Court amend the
12 current class-related discovery deadlines as follows:

13 Class-related discovery deadline: December 1, 2020

14 Plaintiffs' motion for class certification: January 7, 2021

15 Defendant's response in opposition to Plaintiffs' motion for class certification: January 25, 2021

16 Plaintiffs' reply: January 29, 2021

17 If the Parties' renewed motion for extension does not meet the Court's concerns, the Parties
18 request a telephonic status conference with the Court.

19 Dated: October 7, 2020

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26 It is so ORDERED this 8th of October
27 2020.

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30 Marsha J. Pechman
31 United States District Judge

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**RENEWED STIPULATED MOTION TO EXTEND
CLASS-RELATED DISCOVERY DEADLINES
NO. 3:18-cv-05535**

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel/parties of record. I hereby certify that no other parties are to receive notice.

Dated: October 7, 2020

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